

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

TERRIE L. SENA,

Plaintiff,

v.

CHARLES DANIELS, *et al.*,

Defendants.

Case No. 2:21-cv-01154-CDS-NJK

**ORDER**

This action began with a pro se civil-rights complaint submitted under 42 U.S.C. § 1983 by a state prisoner. Plaintiff has applied to proceed *in forma pauperis*. Docket No. 1. In screening Plaintiff's First Amended Complaint, Docket No. 5, the Court noted that Plaintiff might not be eligible for *in forma pauperis* status and directed her to file an updated application if her financial situation had changed. Docket No. 7 at n.1. Plaintiff recently filed a motion asking the Court to extend the deadline for her to file an updated application to December 15, 2022, explaining that the law library supervisor informed her that the Nevada Department of Corrections is taking about 45 days to return completed financial certificates. Docket No. 17.

The Court entered an order screening Plaintiff's First Amended Complaint on March 29, 2022. Docket No. 7. The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. Docket Nos. 7, 10, 13. The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. Docket No. 16.

In reviewing the financial information Plaintiff already provided, the Court notes the balance amount listed tends to show that Plaintiff could pay the full filing fee. Docket No. 1 at 4. But the Court also notes that information is well over a year old, the balance amount appears to be the product of a \$1,400 deposit made in May 2021, and no other comparable deposits were made

1 into Plaintiff's accounts during the six months of information she provided. Although it is a close  
2 call, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

3 For the foregoing reasons, **IT IS ORDERED** that:

4 1. Plaintiff's application to proceed *in forma pauperis*, Docket No. 1, is **GRANTED**.

5 2. *In forma pauperis* status doesn't relieve Plaintiff of her obligation to pay the full  
6 \$350 filing fee under 28 U.S.C. § 1915; it just means that she can do it in installments. Plaintiff is  
7 permitted to maintain this action to conclusion without the prepayment of any additional fees or  
8 costs or the giving of security thereof, and she will not be required to pay an initial installment of  
9 the filing fee. But the full \$350 filing fee will remain due and owing even if this case is later  
10 dismissed.

11 3. To ensure that Plaintiff pays the full filing fee, the Nevada Department of  
12 Corrections must pay to the Clerk of the United States District Court, District of Nevada, 20% of  
13 the preceding month's deposits to the account of **Terrie Sena, #1141092** (in months that the  
14 account exceeds \$10) until the full \$350 filing fee has been paid for this action.

15 4. Service must be perfected no later than February 1, 2023, as provided under Federal  
16 Rule of Civil Procedure 4(m).

17 5. Subject to the findings of the screening order, Docket No. 7, no later than  
18 November 23, 2022, the Attorney General's Office must file a notice advising the Court and  
19 Plaintiff of (a) the names of the defendants for whom it accepts service, (b) the names of the  
20 defendants for whom it does not accept service, and (c) the names of the defendants for whom it  
21 is filing the last-known-address information under seal. As to any of the named defendants for  
22 which the Attorney General's Office cannot accept service, the Office shall file, under seal, but  
23 shall not serve the inmate Plaintiff the last known address of the defendant for whom it has such  
24 information. If the last known address of the defendant is a post office box, the Attorney General's  
25 Office must attempt to obtain and provide the last known physical address.

26 6. If service cannot be accepted for any named defendant, Plaintiff must file a motion  
27 identifying the unserved defendant, requesting issuance of a summons, and specifying a full name  
28 and address for the defendant. As to any defendant for which the Attorney General's Office has

1 not provided last-known-address information, Plaintiff must provide the full name and address for  
2 the defendant.

3 7. Any named defendant for which the Attorney General's Office accepts service of  
4 process must file and serve an answer or other response to the First Amended Complaint, Docket  
5 No. 5, no later than January 3, 2023.

6 8. Plaintiff must serve upon all defendants or, if an appearance has been entered by  
7 counsel, upon their attorneys, a copy of every pleading, motion, or other document that Plaintiff  
8 submits for the Court's consideration. If Plaintiff electronically files a document with the Court's  
9 electronic-filing system, no certificate of service is required. Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc.  
10 R. IC 4-1(b); Nev. Loc. R. 5-1. But if Plaintiff mails the document to the Court, Plaintiff must  
11 include with the document a certificate stating the date that a true and correct copy of the document  
12 was mailed to the defendants or their attorneys. If counsel has entered a notice of appearance,  
13 Plaintiff must direct service to the individual attorney named in the notice of appearance, at the  
14 physical or electronic address stated therein. The Court may disregard any document received by  
15 a district judge or magistrate judge that has not been filed with the Clerk, and any document  
16 received by a district judge, magistrate judge, or the Clerk that fails to include a certificate showing  
17 proper service when required.

18 9. This case is no longer stayed.

19 10. Plaintiff's motion to extend time, Docket No. 17, is **DENIED** as moot.

20 11. The Clerk of the Court is directed to (1) send a copy of this order to the Finance  
21 Division of the Clerk's Office and the attention of the Chief of Inmate Services for the Nevada  
22 Department of Corrections, P.O. Box 7011, Carson City, NV 89702; and (2) electronically serve  
23 a copy of this order and a copy of Plaintiff's First Amended Complaint, Docket No. 5, on the  
24 Office of the Attorney General of the State of Nevada by adding the Attorney General of the State  
25 of Nevada to the docket sheet. This does not indicate acceptance of service.

26 **DATED:** November 3, 2022.

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NANCY J. KOPPE  
UNITED STATES MAGISTRATE JUDGE